

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

OP.No. 27724 of 2001(A)

PETITIONER:

MRS.LAILA MUHAMMED, A-78,
JAWAHAR NAGAR HOUSING COLONY,
ERANHIPPALAM, KOZHIKODE-6.

BY ADV. SRI.KRISHNAKUMAR MANGOT
SMT.P.K.BEENA

RESPONDENTS:

1. THE CALICUT DEVELOPMENT AUTHORITY,
NEAR RAILWAY STATION, KOZHIKODE,
REPRESENTED BY ITS SECRETARY.
2. THE DISTRICT COLLECTOR, KOZHIKODE.
3. THE SPECIAL DEPUTY TAHSILDAR (ARREARS COLLECTION)
KOZHIKODE.

R2 & R3 GOVERNMENT PLEADER SRI V.T.K.MOHANAN
R1 BY SRI.M.K.ABOOBACKER,SC, CALICUT DEVELOPMENT AUTHORITY

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 23/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

ORDER ON CMP.NO.45024/2001 IN O.P.NO.27724/2001

Dismissed

23/11/2007

Sd/- P.R.RAMAN, JUDGE.

APPENDIX

PETITIONER'S EXTS:

EXT.P1	COPY OF SALE DEED DTD. 21/12/1993.
EXT.P2	TRUE COPY OF NOTICE NO.74987/H3/86/CDA (A-78) DTD. 28/5/1999.
EXT.P3	COPY OF REPLY DATED 28/5/1999 OF PETITIONER TO EXT.P2 NOTICE.
EXT.P4	COPY OF NOTICE NO.DR.89/2000-01/CDA DTD. 18/4/2001 OF THE 3RD RESPONDENT.

P . R . RAMAN , J .

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Dated this the day of 23rd November 2007

JUDGMENT

Petitioner is an allottee of a plot No.A78 of Jawahar Nagar Housing Scheme of the erstwhile Calicut Development Authority. An extent of 6.4687 cents of land was thus allotted. Ext.P1 is the registered sale deed dated 21/12/1993 (Document No.4202 of 1993 of West Hill Sub Registry) executed after receiving the consideration as agreed upon between the parties. However, subsequently the petitioner received a notice, Ext.P2 dated 21/4/1999 calling upon her to remit a sum of Rs.92,574/- only being the proportionate share alleged to be liable to be paid by her. Since the land allotted to the petitioner was a subject matter of the land acquisition proceedings and based on the enhancement granted in those land acquisition proceedings, proportionate enhancement value in respect of the petitioner's land was demanded as above. Petitioner replied by Ext.P3 denying her liability. So however, the District Collector sought to recover the amount demanded in Ext.P2 by issuing Ext.P4 revenue recovery notice, which necessitated the filing of this original petition. Petitioner seeks to

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quash Exts.P2 and P4.

2. The main contention of the petitioner is that in so far as there is an absolute sale in her favour as evidenced by Ext.P1 sale deed and when there being no reservation made regarding any further price to be paid by her, the mere fact that the transferor had any other liability to be discharged cannot be a ground for recovering further amount from her. The learned counsel for the petitioner placed reliance on the decision of this court in O.P.NO.25142/2001, wherein in a similar situation, the demand was quashed following the decision in O.P.No.28350/2001 and connected matters. There is no counter affidavit filed by the Calicut Development Authority in this case. Therefore, the fact as pleaded in this original petition is not controverted and there cannot be any dispute that the petitioner is a similarly situated person as in O.P.No.25142/2001. However, the learned Standing Counsel appearing on behalf of the 1st respondent (Calicut Development Authority) submitted that all pending revenue recovery action are being withdrawn based on some decisions taken in the Lok Adalat. However, nothing is placed on record to show that Ext.P4 has since been withdrawn based on any such decision. Therefore, it is presumed that Ext.P4 is still in force. If so, the petitioner cannot be denied the relief as sought for in this original petition. Accordingly, Exts.P2 and P4 are quashed.

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Original Petition is allowed declaring that the petitioner is not liable to pay any further amount as demanded.

P . R . RAMAN ,
Judge .

kcv .

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P.R.RAMAN, J.

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JUDGMENT

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